

2008

**COOS COUNTY
DEADLY
PHYSICAL
FORCE
PLAN**

COOS COUNTY
USE OF DEADLY PHYSICAL FORCE
PLANNING AUTHORITY

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In compliance with the provision of SB 111, 2007 Oregon Laws, each Oregon County is required to establish a Use of Deadly Physical Force Planning Authority. The Planning Authority will establish guidelines to help local law enforcement in the handling and reporting of deadly physical force incidents in a uniform manner throughout the county.

Members of the Planning Authority

District Attorney Paul Frasier - (co-chair)

Sheriff Andy Jackson - (co-chair)

Lt. Steve Smartt - Oregon State Police

Chief Eura Washburn - Coos Bay Police Department

**Labor Union Representative – Sgt. Cal Mitts, Coos Bay Police
Department**

Public Member – Dr. Stephen Kridelbaugh, North Bend

Advisors to the Planning Authority

Deputy Kelley Andrews, Coos County Sheriff's Office

Mr. John Shank, Greenacres

Mr. Michael Boehme, North Bend

Ms. Marty Burkett, North Bend

Mr. Matt Muenchrath, Coquille

Mr. Jim Giambrone, Bandon

Mr. Mike Kralicek, North Bend

Ms. Diana Strader, North Bend

Ms. Susan Graham, Coquille

On February 27, 2008, this plan was approved by the Planning Authority, and submitted for approval to governing bodies of the following jurisdictions:

Coos County, which voted to accept this plan on March 5, 2008;

City of Coos Bay, which voted to accept this plan on March 18, 2008;

City of North Bend, which voted to accept this plan on March 25, 2008;

Oregon State Police, which accepted this plan on March 17, 2008;

City of Coquille, which voted to accept this plan on March 3, 2008;

City of Bandon, which voted to accept this plan on April 7, 2008;

City of Myrtle Point, which voted to accept this plan on March 17, 2008;

City of Powers, which voted to accept this plan on April 21, 2008;

Coquille Indian Tribe, which voted to accept this plan on March 7, 2008; and

Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, which voted to accept this plan on April 30, 2008.

Upon receiving a vote of approval from 2/3 of the above jurisdictions, this Plan was submitted to the Attorney General for approval on May 1, 2008.

Preamble

The use of deadly physical force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. The purpose of this Plan is not to set the standards for the use of force, or to be a substitute for agency policy regarding use of force, but rather to provide a framework for a consistent response to an officer's use of deadly physical force that treats the law enforcement officer fairly, and promotes public confidence in the criminal justice system.

Section 1: Administration

- 1) In the event that a member of the Planning Authority is unable to continue to serve, a replacement shall be appointed as provided in Section 2(1) of Senate Bill 111, Oregon Laws 2007.
- 2) There shall be six voting members of the Planning Authority. The approval of the Plan, elements or revisions thereof, shall be by majority vote.
- 3) The presence of 2/3 of the voting members shall be required in order to hold any vote.
- 4) Any meeting of a quorum of the voting members of the Planning Authority is subject to Oregon's open meeting law.

Section 2: Applicability of the Plan

(1) This plan shall be applicable, as set forth herein, to any use of deadly physical force by a police officer acting in the course of and in furtherance of his/her official duties, occurring within Coos County.

Section 3: Definitions

- Agency - Means the law enforcement organization employing the officer(s) who used deadly physical force.
- Plan - Means the final document approved by the Planning Authority, adopted by two-thirds of the governing bodies employing law enforcement agencies, and approved by the Attorney General. Any approved revisions shall become a part of the Plan.

- **Deadly Physical Force** - Means physical force that under the circumstances in which it is used is readily capable of causing death or a life threatening physical injury.
- **Serious Physical Injury** - Means physical injury which causes death or creates a substantial risk of death or life threatening injury.
- **Physical Injury** - Means impairment of physical condition or substantial pain that does not amount to “serious physical injury.”
- **Involved Officer** - Means the person whose official conduct, or official order, was the cause in fact of the death of a person. “Involved Officer” also means an officer whose conduct was not the cause in fact of the death, but who was involved in the incident before or during the use of deadly physical force that results in a serious or life threatening injury, and this involvement was reasonably likely to expose the officer to a heightened level of stress or trauma.
- **MICT** - Means Major Incident and Crime Team

Section 4: Immediate Aftermath

1. When an officer uses deadly physical force, the officer shall immediately take whatever steps are reasonable and necessary to protect the safety of the officer, or other responding law enforcement or public safety personnel, and any member of the public.
 - a) After taking such steps, the officer shall immediately notify his/her agency of the use of deadly physical force.
 - b) Thereafter, the officer, if able, shall take such steps as are reasonably necessary to preserve the integrity of the scene and to preserve evidence.
 - c) Upon request, the officer shall provide information regarding the incident that is deemed necessary to protect

persons and property, preserve any evidence, and to provide a framework for the investigation.

2. If the use of deadly physical force results in only physical injury, or no injury at all, the Agency may employ its own resources to investigate and document the incident.
 - a) This section does not prohibit the Agency from requesting assistance from an outside law enforcement agency.

Section 5: Life Threatening Physical Injury/Death

When the use of deadly physical force results in death or life threatening physical injury to any person, in addition to the requirements of Section 4(1) of this Plan, and notwithstanding agency policy, the following provisions apply:

- 1) Upon arrival of additional officers, sufficient to manage the scene, each Involved Officer shall be relieved of the above duties set forth in Section 4(1) of the Plan, and the duties shall be re-assigned to uninvolved police personnel.
- 2) As soon as practical, each Involved Officer shall leave the scene, as directed by his or her supervisor, or senior officer on scene, and be offered an opportunity for a medical examination. If the officer is not in need of medical treatment, the officer shall be taken to the Agency Office. If requested, the officer(s) union representative shall be notified.
- 3) As soon as practical, the duty weapon of any officer who fired a weapon shall be seized by investigators, made safe, and to the extent possible kept in the same condition as when seized, and replaced with a substitute weapon, if appropriate. In addition, as soon as practical, the duty weapon of any officer who was in the immediate vicinity when a weapon was fired will be examined to determine if the officer also fired his/her weapon. If it is determined that the weapon of the officer was fired, it shall be seized and replaced as described above.

4) Interview of an "Involved Officer":

As used in this section, "interview" refers to the formal interview of the officer by assigned investigative personnel that occurs within a reasonable time after the incident, and after the officer(s) has had an opportunity to consult with a union representative or counsel, or both, if so desired.

- a) The interview of all Involved Officer(s) including the officer(s) who used deadly physical force resulting in death or life threatening physical injury, shall occur after a reasonable period of time to prepare for the interview and taking into account the emotional and physical state of the officer(s). The interview shall occur no sooner than 48 hours after the incident, unless this waiting period is waived by the officer.
- b) The waiting period does not preclude an initial on-scene conversation with the Involved Officer(s) to assess and make an initial evaluation of the incident.
- c) The on-scene supervisor or senior officer shall take immediate action to stabilize the situation, ensure notification of the appropriate staff and agencies, and shall obtain a preliminary statement from the Involved Officer(s) as soon as possible. The purpose in obtaining this statement will be to obtain public safety information (e.g. outstanding suspects, location of evidence, direction of travel, etc).
- d) The scene shall be secured and managed consistent with the control of any other major crime scene. Only personnel necessary to conduct the investigation shall be permitted access to the scene.
- e) The involved law enforcement agency shall collect at least the following information relating to incidents in which a police officer(s) use of deadly physical force resulted in the death of a person:
 1. The name, gender, race, ethnicity and age of the decedent(s) and/or injured person(s);

2. The date, time and location of the incident; and
3. A brief description of the circumstances surrounding the incident.

The involved law enforcement agency shall promptly submit the information collected under this subsection to the Oregon Department of Justice and will provide a copy of the information to the District Attorney of Coos County.

(5) For at least 72 hours immediately following an incident in which the use of deadly physical force by a police officer resulted in the death of a person, a law enforcement agency may not return an Involved Officer(s) to duties that might place the officer(s) in a situation in which the officer has to use deadly physical force.

- a) Any Involved Officer in an incident that results in death or life threatening physical injury shall immediately be placed on administrative leave and shall not return to work until approved by the officer's parent agency.

(6) In the six (6) months following a use of deadly physical force incident that results in a death, the Agency shall offer each Involved Officer a minimum of two opportunities for mental health counseling. The Involved Officer(s) shall be required to attend at least one session of mental health counseling.

- a) At agency expense, the Involved Officer(s) shall be scheduled for an appointment with a licensed mental health counselor for a counseling session with a follow-up session scheduled at a date determined by the mental health professional and the officer.
- b) The counseling sessions are not to be considered fitness for duty evaluations, and are to be considered privileged between the Involved Officer(s) and counselor.
- c) Nothing in this section precludes the Involved Officer(s) from seeking additional counseling sessions through other programs such as but not limited to peer counseling, family counseling, spousal support, spiritual counseling, stress trauma response, or

other employee assistance programs.

(7) After consultation with the Involved Officer(s), the officer(s) Agency shall notify the officer(s) immediate family according to the Agency's General Order, or other policy regarding such notification.

(8) As soon as practicable after the arrival of a supervisor, notification shall be made to the District Attorney and the Law Enforcement Administrator of the Involved Officer(s) agency.

a) This provision does not prevent the Agency from requiring additional notification within their respective agency according to their agency policy or General Order.

(9) In the event of a use of deadly force that results in death or life threatening physical injury, the investigation may be conducted by the Coos County Major Incident and Crime Team (MICT). The MICT shall be primarily staffed with investigators from agencies other than the involved agency. Otherwise, a written agreement may be adopted and approved by each jurisdiction employing a law enforcement agency within Coos County for the investigation of such incidents. At a minimum, such agreement shall provide for:

- a. A mission statement;
- b. Who will be the supervisor of the investigating officers, and the manner in which conflicts of interest will be resolved;
- c. The membership of the team, and the manner for selecting the members;
- d. Investigative protocols that do not conflict with the requirements of this plan;
- e. Training of the Team and other law enforcement members in the investigation of use of deadly physical force incidents;
- f. The assignment of at least one officer from an agency other than the Involved Officer(s) agency; and

g. The assignment of at least one officer from the Involved Officer's agency.

(10) In the event that a conflict exists in the use of the Involved Officer(s) Agency, the District Attorney shall consult with the Agency Administrator and determine the appropriate manner in which the investigation will proceed.

(11) The assignment of outside investigative personnel does not preclude the agency involved from conducting a concurrent investigation for administrative purposes as established by that agency's policy. The investigation may be necessary for civil suit preparation, determination of policy violations and evaluation of training issues.

(12) In order to preserve the integrity of the investigation and prosecution, if one occurs, the scene supervisor and investigative supervisor shall notify all Involved Officer(s) to refrain from making public statements about the investigation, until such time as the investigation has concluded and the District Attorney has made a determination regarding the criminal responsibility of all involved persons.

(13) The District Attorney and Involved Agency representative shall make an initial public statement about the incident. Such statement shall include:

- a) The time and place of the incident;**
- b) The condition of any suspect; and**
- c) The nature of the force involved.**

(14) Prior to a final determination being made by the District Attorney, the District Attorney and the primary investigative Agency Administrator shall consult with each other and make a public release of information as is deemed appropriate.

(15) Best efforts will be made to notify the next of kin of any party injured or killed in a deadly physical force incident prior to releasing to the public the name of the injured or deceased party. In an incident

where a death occurs, efforts will be made to refer the next of kin to appropriate psychological, grief or spiritual counseling.

Section 6: Investigation Protocols

(1) The investigation, at a minimum, shall consist of:

- a) Witness interviews;**
- b) Evidence collection;**
- c) Scene documentation;**
- d) Background interviews;**
- e) Involved Officer(s) interviews; and**
- f) If practical, interview(s) of the injured person(s).**

(2) The investigation shall be documented in written reports.

- a) All written reports shall be filed with the investigating agency, with copies to be provided to the involved agency; and**
- b) All police reports shall be provided to the District Attorney.**

Section 7: District Attorney

(1) When an incident of the use of deadly physical force by an officer(s) occurs, and death or serious physical injury results, the agency shall, as soon as practicable notify the District Attorney's Office.

- a) Notification shall be made to the District Attorney or other senior member of the District Attorney's staff.**

(2) When use of deadly physical force by an officer(s) occurs, and death or life threatening physical injury results, the District Attorney, and/or senior member of his/her staff will consult with the involved agency administrator regarding the investigation and implementation of the other elements of this plan.

(3) The District Attorney has the sole statutory and constitutional duty to make the decision on whether to present a matter to a Grand Jury.

a. The District Attorney will consult with the investigating agency and make the decision on whether to present the case to a Grand Jury.

1) The timing of the decision will be made by the District Attorney at such time as he/she has determined that sufficient information is available to competently make the decision.

b. If the District Attorney decides to present a case to the Grand Jury, the District Attorney shall promptly notify the investigating agency, the Involved Officer(s) agency, and the Involved Officer(s) representative.

c. If the District Attorney decides that the investigation reveals that the officers use of deadly physical force was justified under Oregon law, and that Grand Jury review is unwarranted, the District Attorney shall notify the Involved Agency, Involved Officer(s), the officer(s) representative, and the public.

(4) If the use of deadly physical force results in physical injury to someone other than a police officer, upon completion of the investigation, all investigative information shall be forwarded to the District Attorney for review.

Section 8: Debriefing

The use of deadly physical force by an officer(s) has the potential to create strong emotional reactions, which have the potential to interfere with an officer's ability to function. These reactions may be manifested immediately, or over time. Further, these reactions may occur not only with an officer directly involved in the incident, but also to other involved officer(s).

The law enforcement agency employing a police officer involved in a use of deadly force incident shall conduct a debriefing after the incident as a normal part of their procedures.

The debriefing, including any suggested changes in the agency policies, shall be submitted to the Planning Authority for administrative review. The Planning Authority's plan for data collection, debriefing, and plan revision should include two distinct procedures for deriving lessons from deadly physical force incidents that result in death. (1) Law enforcement agencies should conduct an evaluation of the incident to determine whether changes to the agency's use of deadly physical force policy or other procedures are advisable. (2) The Planning Authority itself should conduct an assessment of existing County Use of Deadly Physical Force by Police Officers plans in light of experience. Based on that assessment, the Planning Authority could propose changes to those plans. Revised plans would require approval by the governing bodies in the same manner that those bodies approved or disapproved of the original plan.

The requirements of this section provide a minimum framework, and are not intended to take the place of an Agency's policy. Agencies are encouraged to develop formal procedures to deal with an officer's stress response following a use of deadly physical force incident. Such policies should include procedures that are implemented from the time of the incident and continue over time.

(1) Upon a final determination by the District Attorney, the Agency shall conduct an internal review of the matter for compliance with agency policy. Such review, at a minimum shall include a review of the incident with the Involved Officer(s).

(2) If the incident is of such a magnitude that agency-wide morale is affected, the Agency shall take such steps, as it deems necessary to ensure professional police services are provided, and to develop strategies to restore morale.

(3) Each agency shall provide for a process for any officer who makes a request to participate in a deadly physical force or critical incident debriefing.

(4) If available, agencies should encourage officers to take advantage of Employees Assistance Programs, and if appropriate, agencies should request assistance from other agencies that may have in place formal programs for dealing with deadly physical force incidents.

Section 9: Reporting, Training, Outreach

(1) Each law enforcement agency within Coos County, should include in it's policy regarding the use of deadly physical force, a provision regarding engaging members of the community in a discussion regarding the Agency's policies on the use of deadly physical force, as well as discussions regarding the use of deadly physical force by the Agency's personnel.

(2) Law enforcement agencies in Coos County shall continue to require appropriate training for all law enforcement officers, preparing them for appropriate and authorized use of force in the conduct of their assigned duties and when acting within the boundary of their agency policy and procedures as a police officer. Each agency shall provide access to a copy of this plan to every officer, and shall incorporate the plan into the agency's policy.

(3) Upon the conclusion of the investigation and the announcement by the District Attorney of the results of the investigation, and upon conclusion of the debriefing by the Involved Agency, the Involved Agency shall complete the Oregon Attorney General's report regarding the use of force and shall submit the report to the Attorney General.

(4) The Board and Department of Public Safety Standards and Training requires eight (8) hours per year, 24 hours over a three (3) year period of training from either the firearms, or use of force subject area. Each Agency subject to this Plan shall require that a minimum of four (4) hours per year, 12 hours over a three-year period, of that training be on the use of force. The training must include education on the agency's use of deadly physical force policy and the implementation of this plan. The training may also include, but is not limited to:

a) Defensive Tactics;

b) Tactical Shooting;

- c) **SWAT Training;**
- d) **Use of Force in making an arrest; and**
- e) **Use of non-lethal force.**

Each agency shall have a written policy and monitoring system to ensure that the standards are met.

(5) Upon adoption of this Plan, to the extent they are fiscally able, each agency shall take steps to publicize the Plan to their respective communities, by providing information to the media, general public, community organizations, and quasi-governmental bodies.

(6) At least once per calendar year, the Agencies subjected to this Plan shall collectively conduct a seminar intended to educate the media and selected members of Coos County community in the use of deadly physical force by law enforcement officers, and the investigation of such incidents.

(7) Prior to the adoption of this Plan, the Planning Authority shall take steps to engage the Coos County community in a discussion regarding the purpose of the Plan, and the elements contained therein. Such steps shall include, but are not limited to general public release of the draft, discussion with the media, providing the draft to agency employees, union representatives, elected officials, and members of relevant boards or commissions.

(8) The District Attorney and each law enforcement agency will make efforts in public speaking opportunities to inform the public of this plan and law enforcement's efforts to make sure that deadly physical force incidents resulting in death or life threatening physical injury shall be competently and impartially investigated and worthy of the trust and confidence of the public in general.

Section 10: Fiscal Impact

The Planning Authority shall report the estimated fiscal impact on the law enforcement agencies to which the plan applies of each element of this plan.

(1) At the conclusion of each fiscal year following the adoption of the Plan, each agency shall submit to the administrator of the Plan, a report outlining the fiscal impact of each element of the Plan as described in section 2, (a) to (e) (4) of Senate Bill 111, 2007 Oregon Laws.

Section 11: Plan Revision

(1) As provided in the Interagency Deadly Force Investigation Team (Major Crime Team) written agreement, the Planning Authority shall meet at least annually to review and discuss the operation of the Plan.

(2) If a revision of the Plan becomes advisable, the Planning Authority shall meet and discuss a revision. If the Planning Authority adopts a revision, such revision shall be submitted for approval as provided by statute.

SIGNATURE PAGES

COOS COUNTY DEADLY PHYSICAL FORCE PLANNING AUTHORITY

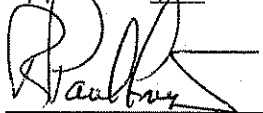
Planning Authority Members



Andrew Jackson
Coos County Sheriff

Date: _____

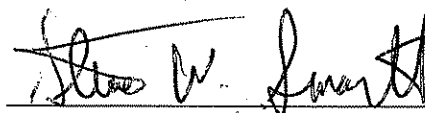
Approved Yes ___ No



R. Paul Frasier
Coos County District Attorney

Date: 02/27/2008

Approved Yes ___ No



Lt. Steve Smart
Oregon State Police

Date: 3/17/08

Approved Yes ___ No



Chief Eura Washburn
Coos Bay Police Department

Date: 03.06.08

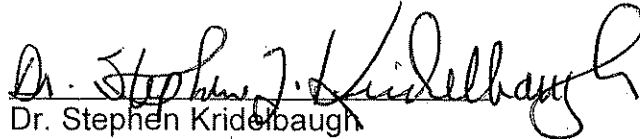
Approved Yes ___ No



Sgt. Cal Mitts
Coos Bay Police Department

Date: 2-27-08

Approved Yes ___ No



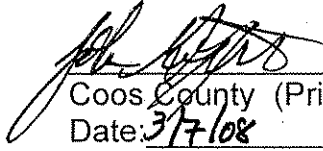
Dr. Stephen Kridelbaugh
Public Member

Date: July 27, 2008

Approved Yes ___ No

COOS COUNTY DEADLY PHYSICAL FORCE PLANNING AUTHORITY

Approval by Governing Bodies



Coos County (Print Name)
Date: 3/7/08

John Griffith

Signature

MARY SCHAMETHORN

City of Bandon (Print Name)
Date: 2/7/08

Mary Schamehorn

Signature

Jeffrey A. McKeon

City of Coos Bay (Print Name)
Date: 3-18-08

J. A. McKeon

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Steve Britton

City of Coquille (Print Name)
Date: MAR 3-08

Steve Britton

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Edward Cook

City of Myrtle Point (Print Name)
Date: 3/17/08

Edward Cook

Signature

Rick Wetherell

City of North Bend (Print Name)
Date: 3/25/08

Rick Wetherell

Signature

Bob Leckband

City of Powers (Print Name)
Date: 4/21/08


Bob Leckband

Signature

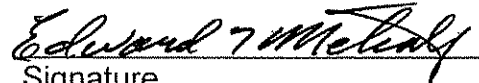
COOS COUNTY DEADLY PHYSICAL FORCE PLANNING AUTHORITY

Approval by Governing Bodies


Steven W. Smartt
Oregon State Police (Print Name)
Date: 3/17/08


Signature

Edward L Metcalf
Coquille Indian Tribe (Print Name)
Date: 3/7/08


Signature

Robert Garcia
Confederated Tribes of (Print Name)
Siuslaw, Coos and Umpqua Indians
Date: April 30, 2008


Signature

